

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Bergstrom et al.
Serial No. : 09/508,487
Filed : March 10, 2000
Examiner : R. Swartz
Group Art Unit : 1645
For : P13 ANTIGENS FROM BORRELIA

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745 Fifth Avenue
New York, New York 10151

**REQUEST FOR WITHDRAWAL OF FINAL OFFICE ACTION
OR OF AT LEAST FINALITY THEREOF OR FOR AN INTERVIEW**

Commissioner for Patents,
P.O. Box 1450,
Alexandria, VA 22313-1450
BY HAND

ATTENTION: SPE Lynette Smith

Dear Sir:

An RCE with an IDS citing U.S. Patent No. 6,610,838 was filed September 5, 2003.

A September 25, 2003 Final Office Action issued, which does not contain any rejections based on the '838 patent, or even consider its claim recitations as a rebuttal to the Examiner's previous positions.

Accordingly, it is respectfully submitted that it appears that the September 25, 2003 final Office Action is *prima facie* incomplete: a complete Office Actin would have truly addressed the '838 patent (e.g., considered and how the '838 patent negates the Examiner's positions in the present case).

Therefore, it seems that finality is improper and should be withdrawn, and that a new non-Final Office Action, fully addressing the '838 patent and the new issues its citation raised (and hence why an RCE was filed), should be issued.

Thus, reconsideration and withdrawal of the September 25, 2003 Final Office Action, or at least finality thereof, or at the very least an interview with the view towards reaching agreement on the polypeptide recitation in this case to parallel that in the '838 patent is respectfully requested, with any fee therefor, or any overpayment in such fees, to be charged or credited to Deposit Account No. 50-0320; and, the Examiner and SPE Lynette Smith invited to telephonically contact the undersigned.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

By: 

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